

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CHERYL MOOSE,

Plaintiff,

vs.

SPOKANE INTERNATIONAL
AIRPORT,

Defendant.

No. CV-10-248-JLQ

**ORDER RE: DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT**

BEFORE THE COURT is Defendant Spokane International Airport's Motion for Summary Judgment (ECF No. 39). On April 28, 2011, the court heard telephonic oral argument. Michael McMahon participated on behalf of the Richard Mount and Kimberly Kamel participated on behalf of Plaintiff. The court took the matter under advisement and authorized counsel to submit supplemental briefs. The following order is intended to supplement and memorialize the comments and rulings of the court:

IT IS HEREBY ORDERED:

1. Defendant's Motion for Summary Judgment (ECF No. 39) is taken under advisement.

2. Each side may submit a supplemental brief, no longer than ten (10) pages in length, no later than **May 5, 2011 at 12:00 p.m.** These briefs can address issues raised in the previously filed briefs, at oral argument and the following:

a) Regarding the Plaintiff's disclosure obligations in her Chapter 13 proceedings, what weight, if any, is to be accorded Bankruptcy Appellate Panel decision *In re Jones*, 420 B.R. 506 (9th Cir. BAP 2009)(citing Ninth Circuit Court of Appeals authority for support at fn 14), which utilized the "estate termination" approach to reconciling § 1327(b) and 1306(a)?

1 b) Assuming there was a duty to disclose her post-confirmation
2 potential claims to the bankruptcy court, is there a factual question whether
3 the failure to disclose was inadvertent, especially considering the apparent
4 uncertainty of the law in the Ninth Circuit?

5 c) Bankruptcy Rule 1019(5) requires a debtor upon conversion
6 to Chapter 7 to file a schedule of post-petition *debts*. A schedule of post-
7 petition acquired *property* is required “except if...348(f)(2) does not apply.”
8 1019(5)(C)(i). There is no contention here that 348(f)(2) (bad faith
9 conversion) applies. Does Rule 1019 presume that the post-petition
10 acquired property of the good faith debtor will already be “listed in the final
11 report and account” lodged by the Trustee?

12 3. Given the court’s heavy calendars and schedules, if the parties should agree to
13 settle this matter they shall promptly notify the court. As the court advised counsel, the
14 trial of this matter shall trail the numerous criminal trials presently set and in view of the
15 uncertainty of criminal matters proceeding to trial, short notice of trial or a continuance
16 thereof may result.

17 IT IS SO ORDERED. The Clerk shall enter this Order and furnish copies to
18 counsel.

19 Dated this 28th day of April, 2011.

20 s/ Justin L. Quackenbush
21 JUSTIN L. QUACKENBUSH
22 SENIOR UNITED STATES DISTRICT JUDGE
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